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International Court of Justice

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Herman Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 1 December 1945, 1000-1230, Lord Justice Lawrence, presiding.

THE PRESIDENT: I will begin the session by reading the judgement of the Tribunal upon the application made by Counsel for the Defendant Hess.

The Tribunal has given careful consideration to the motion of Counsel for the Defendant Hess, and it has had the advantage of hearing full argument upon it both from the Defense and from the Prosecution. The Tribunal has also considered the very full medical reports, which have been made on the condition of the Defendant Hess, and has come to the conclusion that no grounds whatever exist for a further examination to be ordered.

After hearing the statement of the Defendant Hess in court yesterday, and in view of all the evidence, the Tribunal is of the opinion that the Defendant Hess is capable of standing his trial at the present time, and the motion of Counsel for the Defense is, therefore, denied, and the trial will proceed.

Now the witness under examination should come back to the witness box.

(ERWIN LAHOUSEN, resumed the stand and testified further as follows:)

MR. G. D. ROBERTS: May it please the Tribunal, Sir David Maxwell Fyfe said yesterday he had no questions to ask this witness. He has now requested me very shortly to cross examine this witness on one incident mentioned in the Indictment, namely, the murder of fifty R.A.F. officers who escaped from Stalag Luft 3 in March of 1944.

THE PRESIDENT: You said to cross examine.

MR. G. D. ROBERTS: I should have said examine. I realize that falls in the part of the Indictment, which is being dealt with by the Prosecutors for the USSR. My Lord, I have mentioned that matter to General Rudenko, who with his usual courtesy and kindness, has said that he has no objection to my asking some questions on that matter.

THE PRESIDENT: Very well.

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BY MR. G. D. ROBERTS:

Q Might I ask you this: Did you hear of the matter from any of your brother officers?

A No. I heard nothing about it whatsoever.

Q You can't assist the Court at all with the matter?

A No; in no way.

CROSS EXAMINATION

BY DR. EGON KUBUSCHOK (Counsel for Defendant Von Papen):

Q Witness, you stated yesterday that you were an intimate friend and collaborator with Admiral Canaris. Since I cannot address my question directly to Admiral Canaris, I ask you to make reply to me, namely, as regards the following: Did Admiral Canaris know about von Papen's attitude toward Hitler's war policies, and how did Admiral Canaris express himself to you on that point?

A First, I should like to make a slight correction in the question addressed to me. I never asserted that I was an intimate friend of Canaris'. Pieckenbrock was a friend of Canaris'. To be sure I was one of his confidants. From this relationship, however, I recall as regards von Papen's and Canaris' attitude toward the question, that the Counsel has just brought up, that these attitudes were negative.

Q Was this negative attitude directed only towards the war policies, or directed also toward all the violent methods used in the execution of this policy?

A I can and must, according to my best memory, answer this question in connection with a conversation that Admiral Canaris had with von Papen, at which I was present, and I can answer in the affirmative.

Q Did you know that Papen made expressed opinions to Canaris that from the political side, opposition to Hitler's policies was not possible, and that such opposition would have to be sought in the ranks of the military?

A In this connection, that is to say in the immediate connection as it was formulated later, I personally do not know anything. That is to say I, personally, was not a witness of any such conversation between Canaris

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and von Papen in which this question was touched on; and I cannot remember today whether Canaris ever told me anything regarding such conversations with von Papen. It is quite possible, but I cannot recall it and consequently my oath as witness does not allow me to make any statment on it.

Q Do you believe, to sum up, that Canaris' attitude toward von Papen was such that Papen stayed in his political capacity in order to be able to exercise a mitigating influence?

A I believe so, or to concretize it, according to the total impression that I have on this matter.

BY DR. OTTO NELTE (Counsel for Defendant Keitel):

Q Lawyer Nelte, Counsel for Defendant Keitel. My client asked me to present you with the following questions: From what time on did you know Canaris and Pieckenbrock?

A I knew Canaris and Pieckenbrock from the year 1937 on, as a result of my previous activity in the Austrian intelligence service.

Q Did there exist at that time, between Admiral Canaris' Abwehr Section and you, any relationships of a military nature?

A There were no such connections with the Austrian intelligence service, but there were such with the Austrian federal army. The German armed forces had at that time a purely military communication for the exchange of information with Austria for the purpose of collaboration in the intelligence department. This happened with my knowledge. So far as I have been able to ascertain, this was purely military work, that concentrated on the exchange of military information regarding Austria and its neighboring countries.

Q May I ask if this contact between you and Canaris was also a personal matter, and to what extent you knew how the Austrian Army felt about the question of Anchluss?

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A All questions of a political nature, particularly, the question of Anschluss, or the illegal Nazi Party, which at that time was a very acute problem, were completely excluded from the intelligence department. These matters were handled by Graf Marogna, who was the official go-between with Canaris and Colonel General Beck.

Q If I understand you correctly, you wish to say that the personal touch, contact, did not take that direction, that the Austrian members of the General Staff informed you of anything regarding their attitude towards the Anschluss?

A So far as this personal contact is concerned, it took place on one day, namely on the first day when I was on Austrian soil. It took place in the office of the War Ministry in Austria. He was then Chief of the General Staff, or a member of the General Staff in the German Army.

THE PRESIDENT: Can you not hear what was said?

DR. OTTO NELTE: No.

THE PRESIDENT: Would you please repeat the question.

BY DR. OTTO NELTE:

Q I asked the witness to what extent the personal contact between the German General Staff, or intelligence section, existed with those in Austria.

A First of all, there was no such personal contact in the sense that the word is being used here. The contact, such as it actually was, and of which there are witnesses in this room here -- von Papen must be informed of this personally -- it had not to do with questions, which I spoke personally about with Canaris, but in which I acted on the commission of my chief. In none of these cases was the question of Anschluss or internal political Austrian problems discussed. So far as I am concerned, of course, it was not discussed, and so far as Canaris is concerned. He, of course, also avoided it.

Q What was your activity in the Abwehr Office 2?

A In the Abwehr Section 2, which I took over at the beginning of 1939, as I described it yesterday, I am willing to repeat it if you wish, this activity did not have its own designation actually; its function embraced

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various functions and actions, which I can define very precisely: acts of destruction, acts of sabotage, or prevention of sabotage, or in general those activities that are carried out by commandos. It was the function of this division to coordinate these activities and to bring them into relationship with the military necessities, or the plans of the General Staff.

Q Who, in general, gave you your orders as regards coordinating these activities with the military activities?

A My orders were received usually from my Chief, Canaris.

Q I was referring to the office, whether it came from the OKH or the OKW?

A It came from the OKW usually. Usually it came from the OKW, as represented by the Chief at that time of the OKW, Keitel, or the Chief of the Fuehrung Stab; and when the General Staff, or the Air Force Fuehrung Stab were involved in any undertaking, the order, so far as I can best remember was also transmitted by the Armed Forces Fuehrung Stab. All these orders, whatever their source may have been, came through the same channels to the Abwehr Section, and were thus transmitted to me.

Q Are you now describing the official channels through which you received the orders, or are you defining where the orders came from, whether they came from the OKW, the Army, the OKH, or the Fuehrung Stab; or whether they were simply transmitted by way of or via the OKW?

A So far as I personally can make a statement on this, I was simply in touch with my chief, Admiral Canaris. I know from him of his connection with the gentlemen in the Army Fuehrung Stab, occasionally; also with the gentlemen of the General Staff of the Army. I could mention specific cases from memory, but in general, the events were such as I described them.

Q Is it true that Keitel, as the Chief of the OKW, at first every year, and then from 1936 on, in shorter periods, spoke to the officials and section chiefs of the OKW; and on such occasions pointed out to them, specifically, that everyone who believed that something was being asked of him that his conscience would not allow him to carry out, he would be so kind as to tell him, namely, Keitel?

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A It is true that the Chief of the OKW at that time would speak before this circle several times -- I cannot, of course, remember his precise words -- and that he did make this statement, which could be so interpreted. As to run the risk in those cases to which I bore witness yesterday, the risk of speaking so clearly and openly, as acquaintances of Canaris were able to speak at any time, such an occasion was not presented by Keitel.

Q Do I understand you correctly to mean that you do not wish to challenge, in principle, the fact that Keitel actually said these words?

A I can neither challenge it, nor can I add anything to it, because I do not precisely recall it. I do recall that these addresses or conferences took place, and it is altogether possible that the Chief of the OKW at the time used those words, or might have used them. I can only add what I have already said.

Q Is it true that on several occasions, you, in the company of Admiral Canaris, as well as alone, were in the presence of the Chief of the OKW, in order to discuss plans or undertakings with Keitel, which were in the purview of your official duties?

A Of course, I said a great deal about that yesterday; and I do not feel I have the right to talk about such things unless I personally was there.

Q I had the impression, as if in many respects you were being used as a mouthpiece for Admiral Canaris, among other things, through your quotations in his diary.

A The impression is completely fallacious. I am no mouthpiece, and as to that which I said then and now, I retain my complete independence. I have never allowed myself, nor shall I ever allow myself, to become the mouthpiece of any conception, or to make any statements that run contrary to my inner convictions and my conscience.

Q You misunderstood me if you believe that I used the word "mouthpiece" as a derogative. I simply wanted to bring attention to the remarks that have their source in Canaris' diary.

A Yes, I did assist Canaris in his diary, in matters which Canaris was personally concerned, and in matters, since he was dead, he could make no statement. Since I knew of it, knew a great deal, and in great detail, I took it upon myself to say what I know.

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Q Did the Defendant, Keitel, ever ask the question, or communicate with Abwehr Section, as regards whether or not there were Nazis in that section?

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A He answered such questions in elaborate detail in the aforementioned conferences. I know that in such an official position as the OKW, he tolerated in officers no attitudes of mind that ran contrary to a belief in a final victory, or to a complete obedience to the Fuehrer.

Q Could not these statements be interpreted as requirements of a military nature, obedience in a military set, or must they be understood politically?

A Of course, they were military, but there could be no doubt that they were also political, since any discrimination was made in this matter or recognized. It was supposed to be a unit, the National Socialistic Armed Forces. That touches the basic problem.

Q Do you then believe that the basic attitude was still essentially military?

A The basic attitude was or should have been by first order, a National Socialistic; and only in second order, a military attitude, or any sort of attitude.

Q You said "should have been."

A Yes, because that actually was not the case.

Q You said that in first line it was military and not National Socialistic.

A It should have been, according to our interpretation, but according to the attitude represented by the Chief of the OKW at that time -- whether he received that as an order or not, I am not in a position to say, as I wasn't there--but according to his opinion then, it should be a question of absolute obedience in a National Socialistic sense.

Q Do you know anything about the attitude of the generals towards this problem?

A Of course, I do, because immediately after such conferences, as have been mentioned here, this theme was discussed, and a lively exchange of opinions took place, and a large number of those who were

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present -- I can name them; some of them are here -- took a negative attitude to the requirement that the orientation should be so National Socialistic.

Q Yesterday, on the occasion of the discussion of the meeting that took place in the Fuehrer's train, in September of 1939, as regards the communication of the Chief of the OKW to you, you said that the Defendant, Keitel, had expressed himself to you, or rather had expressed himself to the gentlemen present: "These measures had been determined between the Fuehrer and Goering. He, Keitel, had no influence on them. The Fuehrer and Goering telephoned frequently back and forth. Sometimes he knew something about it; sometimes I did, too."

A You have taken it down correctly. What I said then, I have reported in my notes; and I repeated it here in the same way that it was registered in my notes.

Q May I ask whether your remark: "Sometimes I find out about it, sometimes I don't", relates to a concrete, specific case, or was that a general rule?

A That is to be understood as a general statement, so far as I can bear witness to it today, to the best of my remembrance.

Q At this conference in the Fuehrer's train, on the 12th of September, 1939, you spoke further of the transmission of the political goals which, according to you, had their source in Ribbentrop.

A That is correct.

Q And you said that the Defendant, Keitel, transmitted these political goals to those who were present; and the same way with respect to the order regarding Warsaw, namely, the bombardment of Warsaw.

A Well, so far as the air bombardment of Warsaw was concerned, according to the best of my memory, and what I have reported in the files, I can say that in this regard, as also in regards the matter

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of the shootings in Poland, Canaris took the initiative in these matters, in that he pointed out the terrible political international repercussions that such behavior might have.

Q I should now like to ask you whether Keitel, on the occasion when the order to bombard Warsaw was made known, whether Keitel didn't specifically point out that said action was planned only to take place if Warsaw did not surrender, after it had been approached through parliamentary ways; and that first of all, Warsaw should be given an opportunity to capitulate without being bombarded?

A I cannot recall the precise words in which such took place, but so far as my knowledge of that general situation is concerned, it is quite possible, indeed probable, that the Chief of the OKW, at the time, Keitel, did make this remark.

Q Do you know that the Commander in Chief of the Army at that time, von Brauchitsch, and the Chief of the OKW, Keitel, before the Polish War began, specifically objected to the use of Commandos and Gestapo, and rejected their use; and in so doing, had the agreement of Hitler?

A No, that was not known to me, and could not have been known to me, according to my subordinate position at that time. I do not wish to over-emphasize the importance of my official position.

Q There is also here a question of knowledge of a document, which was transmitted to all departments and sections of the OKW, as you probably remember from yesterday. They were the so-called directives; and in these directives, there appears, in contrary to what happened later --

THE PRESIDENT: I think you were going a little bit too fast.

Q (continuing) I said that in connection with such military actions, the orders and directives were mimeographed and generally made known, no doubt.

A So far as my specific department is concerned, such orders were not definitive, and I had nothing to do with them.

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Q Since later you were brought into a discussion of these questions, and since you emphasize that the orders were not literally known to you --

A Of course, a great deal was known to me, because I heard it.

Q For that reason, I want to ask you whether you recall that the Gestapo and SD were used, contrary to the specific intentions and wishes of the OKW, in the matter of the Polish War?

A I do not remember that anymore. I can only speak of what I remember, and what is registered in the files, and in there, there is something regarding this theme, namely, a remark of Hitler's that was transmitted by Keitel at that time, namely, that the Armed Forces objected to that behavior, the Armed Forces and the OKH; and in this memorandum, there were indications of this objection, namely, that the Gestapo and the SD were doing such things. That is all that I know, because I was present at these discussions.

Q During this conversation, were you not told that an objection to the behavior of the SS was brought up, on the part of General Blaskowitz?

A Whether or not this question was brought up in this conference, I cannot recall. I can hardly assume that it was so, because otherwise the question would be registered in the minutes of that conference. It was particularly General Blaskowitz, whose attitude in such matters was very clear, but aside from this conversation in the Fuehrer's train, I remember in its essence something about what was just brought up, namely, Blaskowitz, on that occasion -- I cannot say what form that objection took, whether it was in

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writing or in words, but I do remember the general theme; and I do recall that in a conference at which I was present, such matter was mentioned.

Q What appears to me to be important in this matter, is the fact that actually the Armed Forces, the troops, protested, or at least had a negative attitude toward the behavior of the SS.

A That the Armed Forces did object, is, of course, clear.

Q That is what I wanted to know.

A One moment, please. When I say "the Armed Forces," I mean the masses of common soldiers, the ordinary human beings. Of course, there were in these Armed Forces -- I do not wish to be misunderstood. The concept "Armed Forces" does not include everybody--I mean, the great masses of common soldiers and thinking human beings.

Q You use the term "Wehrmacht" to differentiate between the common soldiers and the High Command.

A So far as methods and conditions at that time were concerned, since at that time the broad masses of the Wehrmacht first made their historical appearance all together, independently of what I can say in my little sector of it.

Q Who gave the order regarding the collaboration with the Ukranian Group? You spoke yesterday of that group.

A I must reiterate something here, and say first of all, that this group was composed of citizens from various countries, Hungarians, Czechs and Poles, who, because of their oppositionist attitude, were in some sort of unit, or had gone to Germany. Who ordered this collaboration, I cannot say, because at the time when these matters came up, in point of time, it is pretty far in the past, in the year 1938, and from then on, if I remember correctly. First of all, at that time, I was not even a member of the Abwehr Section, and was not in touch with the department, which I joined only in 1939, and took over as a functioning organism. I should like to add in this context, because it was also touched on yesterday, that in the question of these Ukranians, it was a question of human beings, who were in any way connected with Germany. To be specific, a great many of these people, also those with whom the Abwehr Division had anything to

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do at that time, were in German concentration camps, and a part of these people were fighting for their country in Soviet-Russian partisan groups. Those are the facts.

Q Did not Admiral Canaris say to you that the chief of the OKW, when the demand was made on him for Polish uniforms and equipment, demands made by the SS, that Keitel specifically ordered that the Abwehr Division should more or less let the matter drop?

A I mentioned this matter also yesterday, and as I said then it was treated altogether in a mysterious way. Until after the actual occurrence of the event no one seemed to know what had or was going to take place. It was finally brought out to expression when one day Keitel asked for so and so many uniforms for the operation called "Himmler." This I knew about, of course, via commands from Canaris; and so far as I understood the matter--and this is registered in the diary--as the officer who had the job of keeping this diary, I wondered how Mr. Himmler had so come in contace with Polish uniforms. And I was told that these uniforms would simply be picked up on such and such a day by somebody, and that was about the end of the matter so far as I was concerned.

Of course, at that moment this matter was not only mysterious but also very suspicious, particularly because of the name "Himmler." We were acquainted with that group of people from the top way down to the man who was going to pick these things up and deliver them to a Hauptsturmfuehrer of the SS. Of course, people had their opinions on this matter; that could not be forbidden then.

Q You also made statements yesterday regarding the treatment of war prisoners. In what regard was Abwehr Section II concerned with this problem?

A Abwehr II was simply there. Of course, it was of the greatest interest to see to it that these war prisoners were treated decently, the same as any intelligence service in the world has a similar interest.

Q Do I understand you to mean that the Division Abwehr II as such was not admittedly concerned with problems concerning war prisoners?

A Not at all

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Q You spoke of this problem of the treatment of war prisoners in connection with the talk that took place the end of July 1941.

A Yes, and during this conversation I was not there as a representative of my division but of the whole section, "Ausland Abwehr," namely, the section that has to concern itself with all these larger problems. And Abwehr Section III, that had to deal with espionage, was of course interested in this matter because there were officers in these camps. And from the point of view of counter-intelligence it was important to know about these things, that is to say, my division, namely II, was not so concerned; it was interested in it only in connection with the whole problem, -- such questions as whether or not people should be killed or treated decently.

Q You said yesterday that the war prisoner camps in the eastern field were under the jurisdiction of the OKW.

A Yes, the war prisoner camps as I said specifically yesterday -- what I said about this problem I know from my talk with Reinecke and not from my knowledge of the orders themselves in the sense that I might have seen them personally; I did not. From this conversation with

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Reinecke the problem of war prisoners also was in the presence of those concerned in Abwehr, and Reinecke who was concerned with these things also. I knew of that order.

Q My question dealt with the limits of the jurisdiction. Did you not know that in the Operation Section of the Army who had responsibility for war prisoners, and that the OK took over this responsibility at the moment in which the war prisoners reached Germany?

A Yes, I also said so yesterday, so far as my knowledge of what happened is concerned, namely, that the General Staff of the Army had prepared everything to bring these people back; that the order had been issued in an order to put it under them; and that the General Staff made the OKW responsible for the consequences of all this. What happened after that I can not judge; I can only say what I saw and heard.

Q I thought that yesterday you expressed the conjecture --

A I did not express conjecture; I simply repeated what I had heard at that time and what I know -- I could of course be wrong -- from whom in the same circle in which I led my daily life, my ordinary contacts with Canaris or the other section chiefs, and being present when addresses were held, -- conversations and that sort of thing; matters that were discussed in this circle. It was under such circumstances that I heard these things, which were frequently discussed. And as I emphasized repeatedly, I told Reinecke to his face that what he himself at that time said regarding these matters.

Q That does not --

A I understand precisely what you mean. I wish to delimit it though as clearly as I may so that I can make clear to you what I did say yesterday in order to define the specific organizational limits.

Q But you know that as a matter of principle the OKW had charge of war prisoners only in Germany?

A That is absolutely so.

Q Could it happen that the Abwehr office that had to do with commando activities took an attitude such as you defined it yesterday

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insofar as you had to do with these things from the German side, but you were not officially concerned with these things?

A Not immediately, no. The Ausland Office had something to do with that to the extent that first of it it was guided by the purpose even before these things became orders; certainly at the moment that the order became a fact. And of course this order involved a serious question of international law, and of course the Abwehr Division was concerned in its Ausland, namely, its foreign division with such questions. Practically my division was immediately interested in it; was concerned with this, because other sections of the Abwehr were so concerned.

Q As regards the division for international law in the Ausland Abwehr did it take an official position toward this?

A I said even yesterday that I had drawn up a large-scale chart of the operations of my division, and that this chart was transmitted to Canaris. But what we had to deal with concretely I knew of only through what Buerckner said at that time. And whether this took place inwwriting or orally in his department--objections and counter-objections--these measures were taken cognizance of and transmitted. I can not say in what form this transmission took place; whether in writing and then orally or vice-versa. After the executions had actually taken place, on the basis of what had actually taken place, was of course perfectly understandable.

THE PRESIDENT: It would help the interpreter if when giving a very long answer like that that you pause between the intermediate parts of the answer.

THE WITNESS: Shall I repeat? I don't know--

THE PRESIDENT: No, no; go on.

BY DOCTOR NELTE:

Q You said something yesterday about the marking of Russian prisoners with brandings. Didn't you find out that a summary of this question was presented by the chief of the OKW, who was at that time in the Fuehrer's headquarters, that this order was given telephonically; that it was a question of a terrible misunderstanding and which led to

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the fact that this order was issued only in a very few copies?

A No, I do ndt know about this, because in general I heard only of things that took place within the Abwehr division; things that were communicated to me by Canaris. I knew of these things only if I received knowledge of them through the channels that I have described.

Q You yourself did not see the order?

A Which order are you referring to?

Q The one concerning the marking of Russian prisoners with a brand.

A No. That is exactly as in the question of the commando orders; I was only present at this very lively discussion of these questions, and so far as the business of branding Russian prisoners is concerned, I simply remember that someone made a medical report on how that could be most efficiently done.

Q You stated yesterday that Admiral Canaris had said that the defendant Keitel had issued the order to do away with General Weygand. The Defendant Keitel denies that. Now, he would like to ask if there is in your possession any document or any written evidence that could serve as proof of the source of such a remark regarding General Weygand?

A This order was not transmitted in writing, but was directly only towards me. Of course, it came to me because I was to carry it out through my department. It was known in a certain circle around Canaris; a certain limited publicity; and I was insinuated into this matter through an address that Keitel held at which I was present and at which I was spoken to by Keitel on this matter. And that I have made note of in my personal journal. It was of course not an every-day affair. On December 23, 1940, this took place.

Q Don't you remember the actual wording of the question that Keitel asked you?

A Of course I can not remember the precise wording. The meaning of it, of course, I remember very well. The meaning was, "What has been done in this matter? How do things stand?"

Q You said that you backed out in your answer.

A I don't again remember the precise wording of my answer, but I

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certainly didn't say what I had said to Canaris, namely, that I wouldn't mostly consider carrying out such a murder order nor that I was not the chief of an organization of murderers. What I actually said to Keitel -- I probably said something about how difficult the matter was. Any evasive answer that I may have thought of.

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Q Did the chief of the OKW command, or if it was said to have made such a command, namely a command to deal in this way with General Weygand? If he had issued such an order would not the matter involve the state? You didn't tell us whether after December 23, 1940, anything transpired in this matter, that is to say, whether the chief of the OKW returned to this question.

A No, I didn't say that yesterday, but I frequently mentioned that during the interrogations that, namely the fact that after this time nothing further happened so far as the chief of the OKW was concerned. Whatever Canaris could have told me because of my acquaintance with him, whatever it might have been, it did not lie in the direction of my jurisdiction. As to the matter of Giraud, we shall come to that presently.

Q It is obvious that if such an action involving the state, such as the murdering of General Weygand, if such an action should have been ordered, and then all of a sudden nothing more is heard of it -- can you give me an explanation of that?

A I can give only this explanation, which is not only mine but also our group's interpretation of the matter. The situation at that time was in fluctuation; events were happening very fast; something was up; and we assume -- and I shall return to this, shall return to why we assumed it -- that this matter and the interest that there may have been in this action, that this interest was thrust into the background.

Q Do you wish to say anything else?

A Yes. I want to say that what I am saying now bears a certain relationship to the affair Giraud, in which Canaris and the others who knew about this as the matter began hoped that it would take the same course as the affair Weygand; that in other words history would take the same course that it had taken before, namely, that the order should come perhaps from Hitler to Keitel and then from Keitel to Canaris and then to me, and then it would stop there. That was our hope. Now, the matter regarding Giraud developed, you know. Whether this was

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right or unright I do not know.

Q For a less important matter your assumption might hold water, but in such an important matter as this matter of Weygand it doesn't seem to me to hold water. If there had been any reason from any source to do away with Weygand how do you explain the fact that Weygand, who later was taken to Germany and put in a villa without being disturbed in any way and being well treated, that nothing was done to him? It could be understood that if the order at that time was to do away with him that it might have been carried out on this occasion.

A I can only answer to this that the attitude toward personalities in public life or personalities in foreign countries was quite various. There were high personalities who were at one moment thought very highly of and at the next moment were to be found in a concentration camp.

Q Now, as is the case of Giraud, you said that in the same way Admiral Canaris in your and other people's presence said that General Giraud was to be done away with on orders from above?

A Yes; that is to be assumed from the remark that Pieckenbrock made, that Keitel should tell these things to Hitler once and for all.

Q So according to the communication made to you by Admiral Canaris, it was not an order of Keitel's but an order of Hitler's in the Ausland Abwehr office?

A So far as we knew about it it was Keitel who brought the order to Canaris. I can only assume that it may have been an order from Hitler. I do not know who actually gave this order, because along this line via Canaris on up I was excluded. It was, so far as I can see it, an order from Canaris, an order which I could discuss immediately with Canaris in the same way I can discuss it here.

Q You yourself didn't personally hear this order?

A No, I did not personally hear it.

Q But you mentioned that at a later time you were spoken to by Keitel about this matter?

A The development was the same as in the case of Weygand.

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Q You used the specific expression, as I remember yesterday, "killing", "elimination". Was such a word used to you by Keitel?

A In my notes which I took down and which I provided with a date--for what reason I don't know--but the affair of Giraud was apparently carried further than the case of Weygand. There were larger aspects to it apparently.

Q You didn't answer my question. What did the defendant Keitel say to you on this occasion; namely, the occasion when you and Canaris were present and the question of Giraud was brought up? What did he say?

A The situation was such that he mentioned the disposing of Giraud, and under much the same conditions as the case of Weygand.

Q That is your opinion, but that is not the fact. I wish to find out from you what Keitel actually said to you. In your presence, he did not use this expression "dispose of"

A I cannot remember the precise expression that he used but it was perfectly clear what the general subject was. The occasion was there to do away with him if he wanted to because he was in occupied territory.

Q That is what I want to speak of at this moment. After Giraud's flight and his return to Unoccupied France, a conference took place in Occupied France?

A Yes, I heard of that.

Q Ambassador Abbetz had a talk with General Giraud which had as its subject matter his voluntary return to confinement.

A Yes, I heard of that.

Q Then you probably also know that at that time the local military authorities immediately called up the Fuehrer

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by way of Paris and believed that an important communication was to be made; namely, that Giraud was in Occupied France and could be taken prisoner?

A I know about this in its broad outline.

Q Then you know also that thereupon the OKW--that is to say in this case, Keitel-- decided that that should not take place.

A No, that I do not know.

Q But you do know that General Giraud was returned to Unoccupied France without having been harmed?

A Yes, I do know that.

Q Well, in that case, the answer to my previous question can be seen without further ado.

THE PRESIDENT: Don't go so fast.

Q Did you know that General Giraud's family lived in Occupied France?

A No.

Q I thought the Abwehr Division was charged with the surveillance of this section?

A No, by no means.

Q The question was asked simply to prove that the family had no opportunity to assist General Giraud to escape and that later he refused to return to captivity. I have one more question which you may be able to answer.

A I beg your pardon. May I return, please, to the question of Giraud?

Q This question also has to do with General Giraud.

A Very well.

Q Do you know that one day your chief, Canaris, saw a special courier from Giraud in which Giraud asked whether he might return to France?

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A No. No, I do not know about it. Perhaps I was not present at the time.

Q I thought it might be in the diary.

A No, it is not. I didn't keep Canaris' diary. I just simply made additions to it so far as my particular department was concerned, but I had nothing to do with the diary in its entirety.

Q Thank you.

THE PRESIDENT: The Tribunal will adjourn now for ten minutes.

(Whereupon a brief recess was taken)

DR. OTTO KRANZBUEHLER (Counsel for Admiral Doenitz) I would like to make a motion to the technique of the procedure. In the course of the proceedings, many German witnesses will be heard. It will be important that the statements of the

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witnesses be brought correctly to the attention of the Court. In the hearing of this witness I have tried to compare the real statements of the witness with the English translation. I have observed, I believe, that in many points the translation was not entirely according to the statement of the witness.

I would, therefore, like to suggest that German stenographers put down the immediate statements of the witness so that the defense counsel will have the opportunity to compare the real statement of the witness with the English translation and, if necessary, to make a motion to correct the translation. That is all.

THE PRESIDENT: Yes, Mr. Justice Jackson.

JUSTICE JACKSON: I just want to inform the Court and the Counsel, in connection with the observation that has just been made, that that has been anticipated and that every statement of the witness is recorded in German so that if any question arises, if Counsel addresses a motion to it, the testimony can be verified.

THE PRESIDENT: Is that German record available to defendants' counsel?

JUSTICE JACKSON: I don't think it is. It is not, so far as I know. It would not be available unless there were some occasion for it.

THE PRESIDENT: It is transcribed, I suppose?

JUSTICE JACKSON: I don't know how far that process is carried. I will consult with the technicians and advise about it, but I know that it is preserved. The extent of my knowledge is that it is preserved in such form that, if a question does arise, it can be accurately determined by the Tribunal, so that if they call attention to some particular thing, either the witness can correct it or we can have the record produced. It would not be practicable to make the recording available without making reproducing machines available. While I am not a technician in that field, I would not think it would be practicable to place that at their disposal.

THE PRESIDENT: Wouldn't it be practical to have a transcription made of the shorthand notes in German and, within the course of one or two days after the evidence has been given, place that transcription in the defen-

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dants' counsel room?

JUSTICE JACKSON: I think that is being done. I think perhaps Colonel Dostert can explain just what is being done better than I can because he is the technician in this field. I am sure that no difficulty need arise over the matter of correct translations.

COLONEL DOSTERT: Your Honors, the reports of the proceedings are taken down in all four languages and every word spoken in German is taken down in German by German court stenographers. The notes are then transcribed and can be made available to defense counsel. Moreover, there is a mechanical recording device which registers every single word spoken in any language in the courtroom, and in the case of doube about the authenticity of the reports' notes, we have the further verification of the mechanical recording, so that defense counsel should have every opportunity to check the authenticity of the translation.

JUSTICE JACKSON: I am advised further by Colonel Dostert that twenty-five copies of the German transcript are being delivered to the defense each day.

DR. OTTO KRANZBUEHLER: Mr. President, I was not informed that the German testimony is being taken down in shorthand in German. I understand that the documents have been translated. If German shorthand is being taken in the Court, I withdraw my motion.

THE PRESIDENT: I think we should get on faster if the defendants' counsel, before making motions, inquire into the matters about which they are making the motions.

DR. FRITZ SAUTER (For the defendant Von Ribbentrop) I would like to ask a few questions of the witness.

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Q Witness, you have previously said that at some time an Order was given, according to which, Russian prisoners of war were marked in a certain manner and that these orders had been taken back by the Defendant Keitel. You did say that, didn't you?

A Yes, I have said that I have knowledge of it.

Q This is interesting to me and I would like to have your remarks as to whether you know about this matter -- that Ribbentrop said that when the time came to mark Russian prisoners of war, he immediately, in his capacity as Reichs Foreign Minister, went to the Fuehrer's Headquarters to inform General Field Marshal Keitel of this Order and had pointed out to him that he, Ribbentrop, in his capacity of Foreign Minister, in other words, as the protector of international rights, that he objected to such treatment of Russian prisoners of war.

I would be interested to know, witness, whether in your circles something has been said of who informed Keitel of this order and who asked him to retract it?

A I have not been informed on that except that this intention had existed and, as I have previously said, this was not carried out.

Q Then I have another question.

Witness, you have spoken of remarks of the Defendant Ribbentrop yesterday, especially of one statement, that an uprising should be put into effect in Poland; all Polish farm houses should go up in flames and all Jews should be killed.

Yes. That is just about the way the statement ran yesterday.

Now, later on, I believe in answering a question of one of the Russian prosecutors, you amplified your statement that you had talked of an Order of the Defendant Ribbentrop. I would now like to know whether you really meant to say that it was really a matter of an Order from Ribbentrop to a military department?

A No.

Q Just a minute please, so that you can answer both together.

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I would also like to remind you that yesterday, in the first treatment of this matter, you spoke of directions which I believe your superior officer had supposedly received from Ribbentrop?

A No, it was not my superior officer. This was Canaris. I would like to say, to clarify this matter. It was a matter that was taken up on the 12 of September, 1939, in the Fuehrer's train. These meetings took place within the following times:

At first a meeting took place between Reichs Foreign Minister Ribbentrop and Canaris in his train, where general political questions in regard to Poland were raised. I was present at the time, and including the subject of the Ukraine and Poland. More about the first meeting, I do not know.

Later another meeting took place in the train of Keitel and in this meeting, the then Chief of the OKW, Keitel, summarized and amplified these political directions, given by Ribbentrop, in regard to the treatment of the Polish problem, as to the political point of view, and he mentioned several possibilities -- we could do this or this could happen, this case might be possible. In connection with that he said: "You, you Canaris, have to start an uprising with the organization of the Ukraine, which must have as its aim Poles and Jews."

Then thirdly, not at a special meeting, but just as a matter of conversation between Ribbentrop and Canaris in connection with this subject, this remark was made casually, with a more amplified statement of the intention, how this uprising, or whatever was to happen, would mean and I remember very clearly that he said, "The farms must go up in flames."

Canaris later on spoke with me in this connection, in regard to this remark and this is what happened. Directions or orders were given by Keitel and Canaris repeated them, one of which was as to the burning of farms, which I remember very clearly.

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THE PRESIDENT: It would assist the Tribunal if one question at a time were asked and if the witnesses would answer "yes" or "no" to the question asked and explain, if they must. afterwards. But questions and answers should be put as shortly as possible and only one question should be asked at a time.

Q (continuing) Now, witness, something else has come to my attention.

THE PRESIDENT: You heard what I said did you? Do you understand it?

Q (continuing) This has come to my attention. Yesterday you said that these remarks of Ribbentrop are not in the diary.

A No -- this is not from the diary but a statement together with the diary of Canaris. This is a remark which was --

Q You also said yesterday that these remarks have especially come to your attention.

A Yes.

Q And today, you said the then Colonel General Blaskowitz, also made such remarks. You also mentioned, however, that these remarks from Blaskowitz, were apparently not put into the diary.

A No, I have --

Q Now, I would like to know, and I would like you to answer this question; why is this remark of the defendant Ribbentrop, though it had come to your special attention, why has it not been entered especially in the diary?

A As to Blaskowitz, I have to say the following, and I repeat.

I have said first, I had not heard during the meeting that the subject Blaskowitz was mentioned in this way and I cannot expect that this subject had fallen into this category, otherwise it would have been put down in the diary. It can also be, of course, that the matter Blaskowitz was discussed at the time when I was not right there, or which I didn't hear at the time. I have only put

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down what I have heard or what Canaris told me to recall.

Q But you heard that yourself from Ribbentrop?

A Yes, but the most important was not altered. It was a matter of extermination, of the burning of farms; according to the sense of it, it was a terroristic measure.

Q Did von Ribbentrop really talk of killing Jews, of beating Jews to death?

A Yes, I do remember correctly this particular remark he made to Canaris, because Canaris did not only talk to me but with others, talked to them in Vienna and he also called upon me as a witness. You heard that too. That was not concluded at the time but these words have always been discussed.

Q Witness, something else. You have told us about intended murder, which you or your department, and other offices, have been ordered to carry out. Have you at any police station made any kind of a report? I would like to point out that failure of doing such a thing, according to German right, has to be punished with prison, or in some serious cases, with death.

A Well, when you talk about German right, I cannot follow you. I am not a lawyer, I am just a simple man.

Q According to my knowledge, according to Austrian law, this is also punishable.

A But at that time the Austrian law was not practically used, as far as I know.

THE PRESIDENT: It is too fast.

Q (continuing) In other words, any report or a report to any police has never been made on your part?

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A Since I have made many official reports, about hundreds of thousands of murders, which I knew about and which are in the records, like the shootings, but all the things I had knowledge of, whether I wanted to know about them or not, unfortunately I was in the midst of them.

Q This is not a matter of shootings that had been executed and that could no longer be prevented, but about things that would have been possible to prevent, that is the difference.

A I can only answer, why has that person who received this order at first hand, why didn't he do the same thing? Why didn't Hitler make a report, for instance?

Q You, as a general of the German Wehrmacht, should have asked Hitler.

A I am sorry, you overestimate my rank, I had only been a general in the German Wehrmacht since the first of January, 1945. At that time I was Lt. Colonel of the High Command and later Colonel of the General Staff, not in the General Staff.

Q But, in 1938, right after Hitler's attack on Austria, you had immediately made a request to be taken into the German Wehrmacht by Hitler.

A I have not made a request, and I didn't have to do this. At those places where I was in service, I was known for my activity. I was working in the Austrian Government, in my very circumscribed activities, with the German Wehrmacht concerning outer Austrian matters -- not only the German Wehrmacht, but also with the decisions of the Austrian Government as well as with Hungarian and Italian matters. These were matters of politics which were not in my domain.

Q But, I believe, witness, your memory plays tricks on you, because you were immediately after Hitler's arrival in Austria, in the High Command, and as you previously denied, you have tried to receive a commission in the German Wehrmacht. You had also made out a questionnaire, in which you have given your complete -- you had sworn to Adolph Hitler.

A Yes, of course, I had done it, as everybody else had done who was in such a position and who was transfered from one place to another, in their old capacity.

H0012-0032

Q Before you said you did not try to get this position and I have been informed that you especially went in the company of two or three other officers; you went especially to Berlin, in order to ask the German General-stab Chief Beck, to put you into the German Army as an Austrian officer.

A I am very glad that you are talking about this, especially to clarify my position. It do not think it was necessary for me to make an application for my new position in the German Wehrmacht. I was in my military activities, just as any military attache. I was known and whoever was a military attache in the country to which he has been accredited --

Moreover, why I have come up so fast, that I can easily explain. I have said that in my Austrian activities and in the collaboration, which was not determined by me, but from the Austrian Departments -- the Austrian Information Service was one of mine -- that the Information Service was directed against the neighboring country of Czechoslovakia -- Czechoslovakia was the country that was next after Austria. Therefore, it was natural that my later Chief, Canaris, who knew me from my former position, was very much interested to have me come up into his department. He was the one and also Beck, whom I saw, actually saw, and I can tell you and others also know it and everything that I am saying now, everything that General Beck told me at that time.

Q Then, it is true you did go to Berlin to try to be transferred into the German Wehrmacht, which you formerly denied?

A No, that is not true, I had not tried to do this. Others have done it, I did not go. I flew there. Canaris tried to, who knew me, not only in my military capacity, but also in my political beliefs, just as General Colonel Beck, who was informed by Canaris about me. I tried to get there, but others have done this for reasons which have only been cleared to me later on, because they did know my political beliefs, just as well as my Austrian commander, who knew about this. Many could not be this, that's the way it was.

DR. SAUTER: I have no other questions of this witness.

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THE PRESIDENT: Before the cross-examination I wish to announce that there will be no public session of the Tribunal this afternoon.

DR. STAHMER: I am for the defendant Goering, and I would like to address a few questions to the witness.

CROSS-EXAMINATION BY DR. STAHMER:

Q Witness, if I understood you correctly, you said yesterday, as the inner basic conviction of General Canaris, that the war on Poland, which was not successful, was the end of Germany and our misfortune. This misfortune, however, would become greater by a triumph of the system which was the purpose of General Canaris to prevent.

A With one exception, you did not understand me. He did not succeed in doing it, but the attack, which was not able to be prevented, because Canaris could neither hinder --

Q Is it known to you that Admiral Canaris, within the first six years, had very active organizations and large sabotage organizations behind the front and that he was very active for these organizations?

A This is naturally known to me, and I have some time ago, I have informed the American departments who have been interested in this, some time ago.

Q Well, how is that possible? This would not be in conformity with his inner political beliefs.

A This is explainable, that in the circles which were in his activities, that he could never talk as he actually believed, and thousands of others could not talk that way either. But he had certain ways of talking, not what he said, but what he had to say; in other words, to follow certain aims and how it was done and that I know and others know too, yes.

Q This is not a question of what he has said, but of what he has actually done. He has not only proposed such measures, but he has also applied himself to the execution, is this true?

A He had, of course, within the activities, in order to keep his position, he had to enforce them because in this activity it was necessary for him to

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stay there and that in 1939 would not have happened what actually happened in 1945, that Himmler finally got his hands into everything, and I would like to give you these two figures, Canaris and Himmler, and I would like to ask what would have happened if --

Q In this connection, I would like to ask the following questions.

Is it known to you that Admiral Canaris, during the first years of the war, had good connections with the SS and the necessity of close cooperation with the SS; that he emphasized this repeatedly so that the defendant Goering had given the advice that he should be more independent in his military --

THE PRESIDENT: You are going too quickly and I do not think you are observing what I said just now, that it will help the Tribunal if you will ask one question at a time.

DR. STAHMER: The question I would like to summarize this way; whether the witness knows that Admiral Canaris, during the first years of the war, had good connections with the SS and recognized the necessity of close cooperation with the formation and that he always emphasized this.

THE WITNESS: Yes, this is known to me. I also know why.

Q (Continuing) And why, please?

A Because he was in the position to see and to know, to be informed, what was going on with these people and that he had the possibility to act if and when it was necessary.

Q Was it the problem of your organization, of the department of Canaris, to give the military organizations information in good time?

A I do not understand what you mean as to organizations with reference to Canaris.

Q Of your office, of the office of Canaris?

A Why of course, the Department I, sure.

Q Now, according to my information the American troop landings in North Africa, this was information that was not given by your office?

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A I do not know, I am not made responsible for my office. This is a question of the Oberst Pieckenbrock, but not for me. No, I did not know.

Q For the case Rowil, yesterday you said that the Colonel of the Air Forces, Rowil, was leading a special troop which had the job of giving information on the Polish campaign, and you also said that Colonel Rowil went to see Admiral Canaris and to report on the result of these flights. Is that true?

A Yes. How should I otherwise know how I knew about it, I have not invented it.

Q I didn't say that.

How did Colonel Rowil come to tell you about this?

A I believe I said that yesterday, because the department Ausland Abwehr, the Upper Department 1, had the job to do so.

Q Have you yourself seen the pictures that were made over England?

A Yes, I have seen them.

Q When and where have these pictures been shown to you?

A In the Office of Canaris, and they were not given to me, it was none of my business. I happened to be there. I was just interested to see what was going on.

Q What did these pictures show?

A I do not remember that any more, the details. They were some pictures that were made from airplanes.

Q Well, if I understand you correctly, the pictures were not shown you?

A It was none of my business. I was there as an interested listener, and it was just as I previously told.

Q Did Rowil give any written reports about these test flights?

A I do not know.

Q You do not know?

H0012-0036

You said Rowil made flights from Budapest later?

A Yes.

Q Do you know that of your own knowledge or information?

A I know it because the information I got at that time, according to the diary, and because at that time I was present at Budapest, and I was asked, because I was there, to attend a Dedication Ceremony at the Palace.

Q And why were these flights executed from Budapest?

A I said that already yesterday. The gentlemen of the Air Force have to give an answer to that, I do not know.

DR. DIX (Counsel for defendant Schacht): You probably do not know me. I am the attorney for the defendant Schacht.

CROSS-EXAMINATION BY DR. DIX:

Q Do you, witness, know Captain Staruenck from the Abwehr?

A I would like you to tell me something about the name. The name alone, I do not know what belongs to it. Give me a few points that will refresh my memory.

Q He is a lawyer who was a reserve officer in the Abwehr, I do not know in what department, but I would say it was in the department of Pieckenbrock. However,

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if you do not know I will not ask you anything further.

A If he was with Pieckenbrock I do not know him. I knew a few. Is Staruenck still alive? Has he been executed?

DR. DIX: For the information of the Court, I only ask this question because I have asked Colonel Staruenck as a witness, and he has already been admitted.

Q (Continuing) However, if you do not know him I will not ask you anything further.

A Well, it is only what I have already said. As to the question whether he is still alive, something came back to me; that this man, in connection with others that I know very well, it might be he was killed, but I cannot put it any more precisely.

DR. FRITZ (Counsel for defendant Fritsche): I would like to ask a few questions of the witness.

CROSS-EXAMINATION BY DR. FRITZ:

Q Witness, is it known to you that the defendant Fritsche, after May 1942, was transferred to the Sixth Army as a soldier and at that time, for the first time, heard of an order for execution. The Oberkommander of the Sixth Army, Paulus, he recommended to him that this order be retracted. The leaflets were thrown all over Russia.

THE PRESIDENT: Will you ask one question at a time? What you have just asked are three or four questions.

Q (Continuing) Well, after I have said this, is it known to you that Fritsche gave Paulus the advice to rescind the order?

A That was already given to his Army. Will you kindly give me this within a certain time?

Q That was the Russian campaign, the things which were talked about, mostly in May 1942.

A No. In connection with the person Fritsche, this is not known to me. In connection with the name Reichenau, which was mentioned before, I do remember a conversation between Reichenau and Canaris. That for me was very impressive, and Reichenau's conception and judgment of things in this conversation, in this circle, where there were several other gentlemen

H0012 - 0038

present. It was shown to me entirely different from how it was generally expected, and as I also thought of it. But furthermore, I do not know anything concrete, anything in connection with the question you directed to me.

Q This question also, that is, is it not a fact that Paulus, then really rescinded the order for the jurisdiction of his Army?

A No, not in connection with the name Paulus, but in general I believe I also said yesterday that several Army Commanders, whose names are no longer in my memory today, all those names that have been recorded, I have already informed you about.

CROSS-EXAMINATION BY DR. KAUFFMANN (Counsel for defendant Kaltenbrunner):

Q Do you know Mr. Kaltenbrunner?

A Kaltenbrunner? I met Kaltenbrunner once in my life. I have seen Kaltenbrunner once in my life on a date that will always be in my memory, I heard him there. It was also the first meeting between Canaris and Kaltenbrunner. It took place in Munich in the Regina Hotel, and it was on that day when the two young people, a student and his sister, were arrested and executed. They distributed leaflets from the auditorium of the University. I read the contents of the leaflets, I remember, and I also remember, among other things, that there was an appeal to the Wehrmacht on this day.

I can easily reconstruct that day. It was the first and last time that I saw Kaltenbrunner, whose name has been known to me. Of course, Kaltenbrunner mentioned this subject to Canaris, and witnesses were there, and everybody was under the terrible impression of what had happened, and Kaltenbrunner spoke about that to Canaris in a manner of which cynicism would be a very mild description. This is the only thing that I can say to this question.

Q Kaltenbrunner said Himmler had taken over the entire executive for himself, and he had only Information Service. Is this in accord with the conversation that you just mentioned?

A I would like you to know in what connection that should be, that is the matter Kaltenbrunner and Himmler, the power politics which took place, to this very plain description of an event. I can give you the names and they

H0012-0039

were very impressive.

CROSS-EXAMINATION BY DR. BOEHM: (Counsel for SA):

Q You were asked yesterday whether the orders as to the treatment of Soviet prisoners of war was known to the leaders of the SA and other organizations, and your answer was that these orders must have been known and I would now like to ask you who these leaders were at the time and what were their names?

A Who they were and what their names were, of course I do not know. I have also stated explicitly yesterday why I said so. They should have been known to you and a large circle, because from everything that became obvious from these orders and what, of course, was in a very natural way, was known by the return of wounded people.

Q In other words, it was only an opinion of yours but in no way a fact based on your information?

A It was not. I have never spoken to any SA leader about it. I never had anything to do with them, and I do not think any one of them knows me closely.

H0012-0040

Q. Could you make a statement on this, that is, that the orders which were named yesterday were given to the formations of the SA, emphasizing SA?

A. Would you kindly formulate that question again?

Q. Could you make another statement, whether it was known to you whether the contents of these orders, which were talked about yesterday, were sent to formations of the SA through channels?

A. No, not through channels, no, but in the way I have previously indicated; in other words, that members of the SA who were also in the Wehrmacht would see outside actually what happened, and when they came back or came in contact with them, that they talked about the Jews as anyone else would. It was only in this connection--

Q. Is it known to you whether members of the SA had anything to do, at all, with the management of the prisoners of war?

A. Within the frame of the employment of SA in the Wehrmacht, yes.

Q. Have you any personal information on that?

A. No, I never said that. I said I had already talked about the SA.

Q. I have asked you what leaders of the SA formations have known about it and you yourself answered that they should have known it.

A. I said the leaders of these organizations, in this way, have known about it.

Q. And today I ask you whether the specific formations of the SA had received these orders.

A. I can only repeat what I said yesterday, and I think I was very clear on the subject, in other words, how these orders, that I did not read myself, but I know the effects anyway -

Q. I can imagine myself how this happened, but I have asked you whether you know anything about having these orders actually given to the SA?

A. No.

H0012-0041

Q. You do not know? Is anything known to you that members of the SA were employed for the supervision of prisoners of war, according to your personal information?

A. Yes, because I, myself, on a trip to the Army Group North, I once got hold of an SA man, who kicked a Russian prisoner of war and I told him off, accordingly. Surely somewhere I have this in my records, and also an Arbeitsdienst Mann.

Q. Have you reported any of these incidents to any superior officers?

A. I have reported it to my superior officers, also my reports about these trips, either orally or in written shape, I have reported this, and on many of these occasions discussions had taken place.

Q. Have you got anything in your records?

A. Yes.

Q. Will you kindly present these?

(Discussion between Counsel and witness in German, not translated).

A. I am looking it up. This is about the Arbeitsdienst Mann, this document.

Q. It is not about the SA?

A. I do not have it here. I would have to look it up.

Q. Is there any possibility that you might find some records?

A. I would have to have the possibility of having the entire material which the American authorities have, and I would have to look through it thoroughly for this one possibility.

DR. GEORG BOEHM (Counsel for S.A.): I will ask the Court to have it made possible at some time.

BY DR. BOEHM:

Q. I would also like to ask you if you have any other information that SA members, who you previously said were employed in supervisory capacities, were made to execute these orders according to statements about Russian prisoners of war.

A. No, not personally.

Q. Thank you.

H0012-0042

DR. STAHMER: (Counsel for Goering): I would like to ask the Court for a fundamental ruling, whether the defendant also has the right to personally ask the witness questions. According to the German Charter, Paragraph 16, I believe this is permissible without a doubt.

THE PRESIDENT: The Tribunal will consider the point you have raised and will let you know later.

H0012-0043

JUSTICE JACKSON: The U.S. prosecution would desire to be heard, I am sure, if there was any probability of that view being taken by the Tribunal.

THE PRESIDENT: Perhaps we had better hear you now then, Mr. Justice Jackson.

JUSTICE JACKSON: Well, I think it is very clear that these provisions are mutually exclusive. Each has the right to conduct his own defense or to have the assistance of counsel. Certainly this would become a performance rather than a trial if we go into that sort of thing. In framing this Charter, we anticipated the possibility that some of these defendants, being lawyers themselves, might conduct their own defenses. If they do so, of course they have all the privileges of counsel. If they avail themselves of the privilege of counsel, they are not, we submit, entitled to be heard in person.

DR. STAHMER: I would like to point out once more that Paragraph 16-A, according to my opinion, speaks very clearly for my point of view, and says that the defendant has the right, either personally or through his attorney, to present evidence, and according to the German text it is clear that the defendant has the right to cross examine each witness called by the prosecution.

THE PRESIDENT: Does any other German counsel,

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defendant's counsel, wish to cross-examine the prisoner?

DR. SERVATIUS (counsel for Sauckel): I would only like to point out that in the written forms that have been given to us by the Court, the defendant as well as his lawyer can make amotion. There is room for two signatures on the questionnaire. I request, therefore, that the defendant himself have the right to speak on the floor.

THE PRESIDENT: What I asked was whether any other defendants' counsel wished to cross examine the witness.

(Dr. Boehm approached the bench)

THE PRESIDENT: What is it? Would you put the earphones on, please, unless you understand English.

What is it you want to ask now? You have already corss examined the witness.

DR. BOEHM: Yes, I have cross examined him, but I have heard from him that he has written statements, that he mas made a report, according to something he has witnessed. I cannot dismiss the witness as yet.

I would like to make a motion that it be made possible for the witness from the prosecution to look through all the reports and all the records, and we will have the possibility to go through all the materials.

THE PRESIDENT: I think you must conclude your cross examination now.

DR. BOEHM: Surely.

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THE PRESIDENT: The Court thinks it would be better if you want to make any further application with reference to this witness, that you should make it in writing later.

DR. BOEHM: Yes.

THE PRESIDENT: Then, as no other defendant's Counsel wishes to cross-examine the witness, the Tribunal will now retire for the purpose of considering the question raised by Dr. Stahmer as to whether a defendant has the right to cross-examine as well as his own Counsel.

(Whereupon at 1.10 p.m. a short recess was taken.)

THE PRESIDENT: The Tribunal has carefully considered the question raised by Dr. Stahmer, and it holds that defendants who are represented by Counsel have not the right to cross-examine witnesses. They have the right to be called as witnesses themselves and to make a statement at the end of the trial.

Do the Prosecutors wish to ask any questions of this witness in re-examination?

COLONEL AMEN: Just one question, your Lordship.

THE PRESIDENT: Let the witness come back here.

COLONEL MAYS: He was taken away.

THE PRESIDENT: Taken away?

COLONEL MAYS: That's right. He was taken away by some Captain who brought him here for the trial. They have sent after him now.

THE PRESIDENT: Do you know how far he has been taken away?

COLONEL MAYS: No, Sir, I do not. I will find out immediately.

THE PRESIDENT: Colonel Amen, are the questions that you wish to ask of sufficient importance for the Tribunal to wait for this witness or for him to be recalled on Monday?

COLONEL AMEN: I don't believe so, your Lordship.

THE PRESIDENT: Very well then. The Tribunal will adjourn, and it will be understood that in the future no witness will be removed whilst he is under examination from the precincts of this Court without the orders of the Tribunal.

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COLONEL AMEN: I don't know how that happened, your Lordship. I understood he was here.

(Whereupon, at 13.40 hours, the Hearing of the Tribunal adjourned.)